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State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340

November 20, 1991

CERTIFIED RETURN RECEIPT
P 074 979 155

Mr. Allen Childs
Genwal Coal Company
P.O. Box 1201
Huntington, Utah 84528

Dear Mr. Childs:

Re: Proposed Assessment for State Violation No. N91-15-2-3, Genwal Coal Company, Crandall Canyon Mine, ACT/015/032, Folder #5, Emery County, Utah

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under R614-401.

Enclosed is the proposed civil penalty assessment for the above-referenced violation. The violation was issued by Division Inspector, Rick Summers on November 7, 1991. Rule R614-401-600 et. sec. has been utilized to formulate the proposed penalty. By these rules, any written information which was submitted by you or your agent, within fifteen (15) days of receipt of the Notice of Violation, has been considered in determining the facts surrounding the violation and the amount of penalty.

Under R614-401-700, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within 30 days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.

● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to:

**ALLEN CHILDS
GENWAL COAL COMPANY
P O BOX 1201
HUNTINGTON UT 84528**

4. Article Number

P 755 090 771

Type of Service:

- ☐ Registered ☐ Insured
☐ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and **DATE DELIVERED**.

5. Signature — Addressee

X

6. Signature — Agent

X

7. Date of Delivery

NOV 25 1991

8. Addressee's Address (ONLY if requested and fee paid)

PS Form 3811, Feb. 1986

MBM DOGM ACT 015/032 N91-13-1-1

DOMESTIC RETURN RECEIPT

P 755 090 771

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL

(See Reverse)

Sent to ALLEN CHILDS	
GENWAL COAL COMPANY	
Street and No. P O BOX 1201	
P.O., State and ZIP Code HUNTINGTON UT 84528	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date delivered	
Return Receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	\$
Postmark or Date	

S Form 3800, June 1985

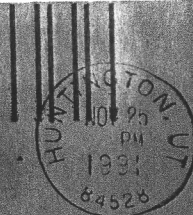
MBM DOGM ACT/015/032 N91-13-1-1

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.



PENALTY FOR PRIVATE
USE, \$300

RETURN
TO



Print Sender's name, address, and ZIP Code in the space below.

STATE OF UTAH
NATURAL RESOURCES
OIL, GAS, & MINING
3 TRIAD CENTER, SUITE 350
SALT LAKE CITY, UTAH 84180-1203



**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE,
CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)**

If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving a receipt attached and present the article at a post office service window or hand it to your rural carrier. (no extra charge)

If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach and retain the receipt, and mail the article.

If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.

If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.

Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.

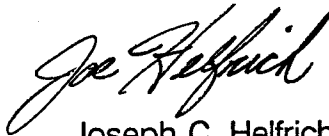
Save this receipt and present it if you make inquiry.

☆ U.S.G.P.O. 1987-176-131

2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within 30 days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph 1, the Assessment Conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of violation will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Vicki Bailey.

Sincerely,



Joseph C. Helfrich
Assessment Officer

jbe
Enclosure

**WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE Genwal Coal Company/Crandall Canyon Mine **NOV #** N91-15-2-3

PERMIT # ACT/015/032

VIOLATION 1 **OF** 3

ASSESSMENT DATE 11/20/91

ASSESSMENT OFFICER Joseph C. Helfrich

I. HISTORY MAX 25 PTS

- A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 11/20/91

EFFECTIVE ONE YEAR TO DATE 11/20/90

PREVIOUS VIOLATIONS

EFFECTIVE DATE

POINTS

N91-37-2-1

08/18/91

1

1 point for each past violation, up to one year;

5 points for each past violation in a CO, up to one year;

No pending notices shall be counted.

TOTAL HISTORY POINTS 1

II. SERIOUSNESS (either A or B)

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Event

A. Event Violations Max 45 PTS

1. What is the event which the violated standard was designed to prevent?
Conducting activities without appropriate approvals.
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? Occurred

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS

The inspector's statement revealed that the operator had initiated construction of two new facilities: 1) an extension/addition to the existing shop building; and 2) a new concrete pad for a new ventilation fan. Both activities were confined within the existing disturbed area and no environmental damage resulted from the activities.

3. What is the extent of actual or potential damage?

RANGE 0 - 25*

*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 0

PROVIDE AN EXPLANATION OF POINTS

The violation is permit related. No approvals were obtained for the activities. The lack of permitting for these activities could result in bond/reclamation plan changes and description of surface facilities. No potential environmental damage was observed from these activities, thus no points are assigned.

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? _____

RANGE 0 - 25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS

TOTAL SERIOUSNESS POINTS (A or B) 20

III. NEGLIGENCE MAX 30 PTS

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO - NO NEGLIGENCE;
 OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO - NEGLIGENCE;
 OR Was this violation the result of reckless, knowing, or intentional conduct? IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.

... No Negligence	0
... Negligence	1-15
... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Ordinary

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS

The operator proceeded with the activities knowing that the approvals had not been obtained. Previous inspections had reminded the operator of the importance of the permit amendment and approval process. Therefore, it was apparent that the violation was a result of indifference to DOGM regulations.

IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?
 ... IF SO - EASY ABATEMENT
 Easy Abatement Situation
 ... Immediate Compliance -11 to -20*
 ... Immediately following the issuance of the NOV
 ... Rapid Compliance -1 to -10*
 ... (Permittee used diligence to abate the violation)
 ... Normal Compliance 0
 (Operator complied within the abatement period required)
 (Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

* Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance?

... IF SO - DIFFICULT ABATEMENT

Difficult Abatement Situation

- ... **Rapid Compliance** -11 to -20*
- ... (Permittee used diligence to abate the violation)
- ... **Normal Compliance** -1 to -10*
- ... (Operator complied within the abatement period required)
- ... **Extended Compliance** 0
- (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)
- (Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? _____

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS

The violation has not been terminated to date.

V. ASSESSMENT SUMMARY FOR N91-15-2-3 1/3

I.	TOTAL HISTORY POINTS	<u>1</u>
II.	TOTAL SERIOUSNESS POINTS	<u>20</u>
III.	TOTAL NEGLIGENCE POINTS	<u>8</u>
IV.	TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>29</u>
	TOTAL ASSESSED FINE	<u>\$ 380.00</u>

jbe

**WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE Genwal Coal Company/Crandall Canyon Mine NOV #N91-15-2-3PERMIT # ACT/015/032VIOLATION 2 OF 3ASSESSMENT DATE 11/20/91 ASSESSMENT OFFICER Joseph C. Helfrich**I. HISTORY MAX 25 PTS**

- A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 11/20/91 EFFECTIVE ONE YEAR TO DATE 11/20/90

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
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<u>N91-37-2-1</u>	<u>08/18/91</u>	<u>1</u>
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1 point for each past violation, up to one year;
5 points for each past violation in a CO, up to one year;
No pending notices shall be counted.

TOTAL HISTORY POINTS 1**II. SERIOUSNESS (either A or B)**

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Hindrance**A. Event Violations Max 45 PTS**

- What is the event which the violated standard was designed to prevent?

- What is the probability of the occurrence of the event which a violated standard was designed to prevent? _____

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS

3. What is the extent of actual or potential damage?

RANGE 0 - 25*

*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS _____

PROVIDE AN EXPLANATION OF POINTS

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? Actual
RANGE 0 - 25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS

The inspector's statement revealed that Plate 3-1 was submitted to satisfy a conditional approval for amendment ACT/015/032-91B. The plate contained numerous errors. The plate failed to depict the current surface facilities and was not accurate; additionally, the plate incorporated proposed facilities that had not been approved by the division. The disturbed area boundary depicted that area of disturbance as encroaching on the existing stream buffer zone for Crandall Creek when compared with previous maps. In actuality, this is unlikely; however, the certified map depicted this to be the case. Both the disturbed area and permit area boundaries were inaccurate and contour information had been removed that was prevalent in the originally approved plate.

TOTAL SERIOUSNESS POINTS (A or B) 15III. NEGLIGENCE MAX 30 PTS

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO - NO NEGLIGENCE;
 OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO - NEGLIGENCE;
 OR Was this violation the result of reckless, knowing, or intentional conduct? IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.

... No Negligence	0
... Negligence	1-15
... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE OrdinaryASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS

The inspector's statement revealed that the NOV was a result of the failure of the operator to carefully edit and verify map accuracy and information prior to certification and submittal.

IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?
 ... IF SO - EASY ABATEMENT
 Easy Abatement Situation
- | | |
|---|-------------|
| ... Immediate Compliance | -11 to -20* |
| ... Immediately following the issuance of the NOV | |
| ... Rapid Compliance | -1 to -10* |
| ... (Permittee used diligence to abate the violation) | |
| ... Normal Compliance | 0 |
- (Operator complied within the abatement period required)

(Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

* Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance?

... IF SO - DIFFICULT ABATEMENT

Difficult Abatement Situation

... **Rapid Compliance** -11 to -20*

... (Permittee used diligence to abate the violation)

... **Normal Compliance** -1 to -10*

... (Operator complied within the abatement period required)

... **Extended Compliance** 0

(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? _____

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS

The violation has not been abated to date.

V. ASSESSMENT SUMMARY FOR N91-15-2-3 2/3

I.	TOTAL HISTORY POINTS	<u>1</u>
II.	TOTAL SERIOUSNESS POINTS	<u>15</u>
III.	TOTAL NEGLIGENCE POINTS	<u>8</u>
IV.	TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>24</u>
	TOTAL ASSESSED FINE	<u>\$ 280.00</u>

jbe

**WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE Genwal Coal Company/Crandall Canyon Mine NOV #N91-15-2-3PERMIT # ACT/015/032VIOLATION 3 OF 3ASSESSMENT DATE 11/20/91 ASSESSMENT OFFICER Joseph C. Helfrich**I. HISTORY MAX 25 PTS**

- A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 11/20/91 EFFECTIVE ONE YEAR TO DATE 11/20/90

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N91-37-2-1</u>	<u>08/18/91</u>	<u>1</u>

1 point for each past violation, up to one year;
5 points for each past violation in a CO, up to one year;
No pending notices shall be counted.

TOTAL HISTORY POINTS 1**II. SERIOUSNESS (either A or B)**

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Event**A. Event Violations Max 45 PTS**

- What is the event which the violated standard was designed to prevent?
Conducting activities without appropriate approvals, environmental harm, and water pollution.
- What is the probability of the occurrence of the event which a violated standard was designed to prevent? Occurred

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS

The inspector's statement revealed that the operator had removed and disconnected the diversion identified as UD-3. The diversion is important to route undisturbed drainage and the watersheds directly above the portals to bypass the sedimentation pond system. The culvert was completely nonfunctional and would result in discharge directly onto the upper pad and ultimately to the sedimentation pond. The sedimentation pond is not sized adequately to handle this additional drainage.

3. What is the extent of actual or potential damage?

RANGE 0 - 25*

*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 0

PROVIDE AN EXPLANATION OF POINTS

No damage occurred as a result of the violation.

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? _____

RANGE 0 - 25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS

TOTAL SERIOUSNESS POINTS (A or B) 20

III. NEGLIGENCE MAX 30 PTS

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO - NO NEGLIGENCE;
 OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO - NEGLIGENCE;
 OR Was this violation the result of reckless, knowing, or intentional conduct? IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.

... No Negligence	0
... Negligence	1-15
... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Greater Degree of Fault

ASSIGN NEGLIGENCE POINTS 23

PROVIDE AN EXPLANATION OF POINTS

The inspector's statement revealed that the operator had proceeded with the culvert removal knowing that approvals had not been obtained. I have had several conversations with the operator and their consultants (Brent Bove, Earthfax Engineering) regarding the information required to grant an approval for removal of this culvert. I have, in those conversations, emphasized that the culvert must be maintained and functional until an approval to route the drainage into the mine is submitted and approved. In fact, the Division recently approved an emergency amendment to replace the culvert with a smaller pipe. Division approval for that amendment was granted on September 10, 1991, (Amendment ACT/015/032-91E). To date, the Division has not received any submittals for an amendment to the MRP to remove culvert UD-3.

IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?
 ... IF SO - EASY ABATEMENT
 Easy Abatement Situation
 ... Immediate Compliance -11 to -20*
 ... Immediately following the issuance of the NOV)

- ... **Rapid Compliance** -1 to -10*
- ... (Permittee used diligence to abate the violation)
- ... **Normal Compliance** 0
- (Operator complied within the abatement period required)
- (Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

* Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance?

... IF SO - DIFFICULT ABATEMENT

Difficult Abatement Situation

- ... **Rapid Compliance** -11 to -20*
- ... (Permittee used diligence to abate the violation)
- ... **Normal Compliance** -1 to -10*
- ... (Operator complied within the abatement period required)
- ... **Extended Compliance** 0
- (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)
- (Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? _____ ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS

The violation has not been abated to date.

V. ASSESSMENT SUMMARY FOR N91-15-2-3 3/3

I.	TOTAL HISTORY POINTS	<u>1</u>
II.	TOTAL SERIOUSNESS POINTS	<u>20</u>
III.	TOTAL NEGLIGENCE POINTS	<u>23</u>
IV.	TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>44</u>
	TOTAL ASSESSED FINE	<u>\$ 760.00</u>